

HOMAN & STONE
 Deanna M. Brown, Esq. [SBN 167003]
 Gene S. Stone, Esq. [SBN 162112]
 12 North Fifth Street
 Redlands, California 92373
 (909) 307-9380
 (909) 793-0210 - Fax

L:\Meyer v. Capital Alliance Group 1300.090\FEDERAL CASE\CAPTION.amd.wpd:MA:tmw

Attorneys for Defendants, CAPITAL ALLIANCE GROUP; CAPITAL ALLIANCE PARTNERS, LLC; NARIN CHARANVATTANAKIT; MARK MENDOZA; CHRISTINA DUNCAN; and JUSTINE CRAINE

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DAVID MEYER; KEN MOSER; ARNIE)
 KATZ; DCM PROPERTIES, INC.; VENTURE)
 SUPPORT GROUP, LLC,)

Plaintiffs,)

VS.)

CAPITAL ALLIANCE GROUP; CAPITAL)
 ALLIANCE PARTNERS, LLC; MARK)
 MENDOZA; CHRISTINA DUNCAN; NARIN)
 CHARANVATTANAKIT aka NARIN)
 CHARAN, aka CLAYTON HEATH,)
 individually and dba BANKCAPITAL,)
 BANKCAPITAL DIRECT, SIMPLE)
 BUSINESS FUNDING, COMMUNITY)
 BUSINESS FUNDING, 3-DAY LOANS,)
 ZOOM CAPITAL, FUND QUICK, SNAP)
 BUSINESS FUNDING, NEXT DAY)
 BUSINESS LOANS; FUNDED 48 (DOE 1);)
 SMALL BUSINESS LENDING)
 ASSOCIATES (DOE 2); JUSTINE CRANE)
 (DOE 3); and DOES 4-25)

Defendants.)

CASE NO. 15-CV-2405-WVG

[Assigned for all purposes to: Magistrate Judge William V. Gallo]

**REQUEST FOR JUDICIAL NOTICE IN
 SUPPORT OF MOTION TO DISMISS
 PLAINTIFFS' COMPLAINT BY
 DEFENDANTS CAPITAL ALLIANCE
 GROUP; CAPITAL ALLIANCE
 PARTNERS, LLC; NARIN
 CHARANVATTANAKIT; MARK
 MENDOZA; CHRISTINA DUNCAN; and
 JUSTINE CRAINE**

(Filed concurrently with Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint as to Moving Defendants [Rule 12(b)(6)])

DATE: 9/18/17
 TIME : 2:00 p.m.

DEFENDANTS hereby request the Court to take judicial notice of the following documents filed with the Court.

California Evidence Code section 452 provides in relevant part as follows:

Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:

* * *

(d) Records of

(1) any court of this state or

(2) any court of record of the United States or of any state of the United States.

* * *

California Evidence Code § 453 provides: “The trial court shall take judicial notice of any matter specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.”

Request is hereby made pursuant to the above-cited authority that the Court take judicial notice of the following documents:

1. The single page facsimile sent by BankCapital on November 12, 2012 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 877 370 2808 to be removed from our list.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “A”).

2. The single page facsimile sent by BankCapital on January 31, 2013 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 877 896 8277 to be removed from our lists.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “A1”).

3. The single page facsimile sent by BankCapital on March 4, 2013 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please visit stopfaxes.org, or call 888-261-0361. (Attached to Plaintiffs’ Second

Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "A2".)

1 4. The single page facsimile sent by BankCapital on March 5, 2013 which included an
2 opt-out notice located at the bottom of the page containing the following verbiage: "No longer
3 interested? Please call 877 404 4697 to be removed from our list." (Attached to Plaintiffs' Second
4 Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "A3".)

5 5. The single page facsimile sent by BankCapital which included an opt-out notice
6 located at the bottom of the page containing the following verbiage: "No longer interested?
7 Please log onto faxbc.com/remove, or call 1-416-900-1850, 1-860-506-1172 to be removed."
8 (Attached to Plaintiffs' Second Amended Complaint as Exhibit "A", and Defendant's Motion to
9 Dismiss as Exhibit "A4".)

10 6. The single page facsimile sent by Fast.Working Capital on May 9, 2013 which
11 included an opt-out notice located at the bottom of the page containing the following verbiage: "No
12 longerinterested? Please visit stopfaxes.org, or call 8774044697 be removed." (Attached to
13 Plaintiffs' Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as
14 Exhibit "B".)

15 7. The single page facsimile sent by Community Business Funding on September 9,
16 2013 which included an opt-out notice located at the bottom of the page containing the following
17 verbiage: "No longer interested? Please visit thefaxremovalservice.com, or call 888-261-0361 to
18 be removed." (Attached to Plaintiffs' Second Amended Complaint as Exhibit "A", and
19 Defendant's Motion to Dismiss as Exhibit "C".)

20 8. The single page facsimile sent by Simple Business Funding on December 3, 2013
21 which included an opt-out notice located at the bottom of the page containing the following
22 verbiage: "No longer interested? Please call 888-261-0361 to be removed." (Attached to
23 Plaintiffs' Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as
24 Exhibit "D".)

9. The single page facsimile sent by Simple Business Funding on January 20, 2014 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 18775046366 to be removed.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “D1”.)

10. The single page facsimile sent by Zoom Capital which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 18775046366 to be removed from future reminders.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “E”).

11. The single page facsimile sent by FundQuik on March 27, 2014 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 866-830-0243 to be removed from future notices.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “F”).

12. The single page facsimile sent by FundQuik on April 8, 2014 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 18775046366 to be removed from future notices.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “F1”).

13. The single page facsimile sent by FundQuik on April 15, 2014 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 1-877-404-4698 to be removed from future notices.” (Attached to Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “F2”).

14. The single page facsimile sent by 3DayLoans on April 29, 2014 which included an opt-out notice located at the bottom of the page containing the following verbiage: “No longer interested? Please call 866-830-0243 to be removed from future notices.” (Attached to Plaintiffs’

Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "G".)

1 15. The single page facsimile sent by 3DayLoans on April 29, 2014 which included an
2 opt-out notice located at the bottom of the page containing the following verbiage: "No longer
3 interested? Please call 866-830-0243 to be removed from future notices." (Attached to Plaintiffs'
4 Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "G1".)

5 16. The single page facsimile sent by 3DayLoans on April 29, 2014; which included an
6 opt-out notice located at the bottom of the page containing the following verbiage: "No longer
7 interested? Please call 866-829-1119 to be removed from future notices." (Attached to Plaintiffs'
8 Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "G2".)

9 17. The single page facsimile sent by 3DayLoans on May 8, 2014; which included an
10 opt-out notice located at the bottom of the page containing the following verbiage: "No longer
11 interested? Please call 1 855 241 1205 to be removed from future notices." (Attached to
12 Plaintiffs' Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as
13 Exhibit "G3".)

14 18. The single page facsimile sent by Snap Business Funding on June 4, 2014 which
15 included an opt-out notice located at the bottom of the page containing the following verbiage: "No
16 longer interested? Please call 866-829-1119 to be removed from future reminders." (Attached to
17 Plaintiffs' Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as
18 Exhibit "H".)

19 19. The single page facsimile sent by Snap Business Funding which included an opt-out
20 notice located at the bottom of the page containing the following verbiage: "No longer interested?
21 Please call 1-888-350-3766 to be removed from future reminders." (Attached to Plaintiffs' Second
22 Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "H1".)

23 20. The single page facsimile sent by NextDay Business Loans which included an
24 opt-out notice located at the bottom of the page containing the following verbiage: "No longer
25 interested? Please call 1-888-350-3766 to be removed from future reminders." (Attached to Plaintiffs' Second
26 Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "H1".)

interested? Please call 1 888 266 0196 to be removed from future reminders.” (Attached to
 1 Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as
 2 Exhibit “I”).)

3
 4 21. The single page facsimile sent by NextDay Business Loans on June 26, 2014 which
 5 included an opt-out notice located at the bottom of the page containing the following verbiage: “No
 6 longer interested? Please call 1 888 350 3766 to be removed from future notices (Attached to
 7 Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as
 8 Exhibit “I1”).)

9
 10 22. The single page facsimile sent by NextDay Business Loans on July 8, 2014 which
 11 included an opt-out notice located at the bottom of the page containing the following verbiage: “No
 12 longer interested? Please call 866-829-1119 to be removed from future notices.” (Attached to
 13 Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as
 14 Exhibit “I2”).)

15
 16 23. The single page facsimile sent by NextDay Business Loans on July 9, 2014 which
 17 included an opt-out notice located at the bottom of the page containing the following verbiage: “No
 18 longer interested? Please call 1 266 0196 to be removed from future notices.” (Attached to
 19 Plaintiffs’ Second Amended Complaint as Exhibit “A”, and Defendant’s Motion to Dismiss as
 20 Exhibit “I3”).)

21
 22 23. The single page facsimile sent by funded48 which included an opt-out notice located
 23 at the bottom of the page containing the following verbiage: “To remove your fax number from
 24 future faxes please call 1-877-469-6456.” (Attached to Plaintiffs’ Second Amended Complaint as
 25 Exhibit “A”, and Defendant’s Motion to Dismiss as Exhibit “J”).)

26
 27 24. The single page facsimile sent by funded48 on January 9, 2015 which included an
 28 opt-out notice located at the bottom of the page containing the following verbiage: “To remove
 your fax number from future messages please call 1-877-468-7989.” (Attached to Plaintiffs’

1 Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "J1".)

2 25. The single page facsimile sent by funded48 on March 25, 2015 which included an
3 opt-out notice located at the bottom of the page containing the following verbiage: "No longer
4 interested? Please call 1-888-266-0196 to be removed from future notices." (Attached to Plaintiffs'
5 Second Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "J2".)
6

7 26. The single page facsimile sent by Small Business Lending Associates which included
8 an opt-out notice located at the bottom of the page containing the following verbiage: "No longer
9 interested? To unsubscribe, please call 1-877-469-6456." (Attached to Plaintiffs' Second
10 Amended Complaint as Exhibit "A", and Defendant's Motion to Dismiss as Exhibit "K".)
11

12 DATED: July 7, 2017

HOMAN & STONE

14 

16 BY: _____

17 GENE S. STONE
18 DEANNA M. BROWN
19 Attorneys for Defendants, CAPITAL
20 ALLIANCE GROUP; CAPITAL ALLIANCE
21 PARTNERS, LLC; NARIN
22 CHARANVATTANAKIT; MARK
23 MENDOZA; CHRISTINA DUNCAN and
24 JUSTINE CRAINE
25
26
27
28

PROOF OF SERVICE (Federal Rules of Civil Procedure Rule 5)

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of 18 and not a party to the within action; my business address is 12 North Fifth Street, Redlands, California 92373.

On July 10, 2017, I served the foregoing document(s) described as **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION TO DISMISS PLAINTIFFS' COMPLAINT BY DEFENDANTS CAPITAL ALLIANCE GROUP; CAPITAL ALLIANCE PARTNERS, LLC; NARIN CHARANVATTANAKIT; MARK MENDOZA; CHRISTINA DUNCAN; and JUSTINE CRAINE** (Filed concurrently with Defendants' Motion to Dismiss Plaintiffs' Second Amended Complaint as to Moving Defendants [Rule 12(b)(6)]) on the other parties in this action as follows:


Daniel J. Williams, Esq.
Law Offices of Daniel J. Williams
3990 Old Town Ave., Ste. 200-A
San Diego, CA 92110
Phone: (619) 259-0285
Fax: (619) 923-3253
Email: djw2esq@gmail.com
(Attorneys for Plaintiffs)

☒ **(BY ELECTRONIC SERVICE)** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below.

☒ **(BY MAIL)** By placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of record or parties in propria persona. ☐ I deposited such envelope(s) in the mail at Redlands, California, with postage thereon fully prepaid. ☒ I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on the same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 10, 2017, at Redlands, California.



Tammy Wons